

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 902 of 1998

in

SPECIAL CIVIL APPLICATION No 5719 of 1998

with

CIVIL APPLICATION No 6814 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA and
MR.JUSTICE J.R.VORA

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

BHARATBHAI BHIKHABHAI MAKWANA

Versus

JEEVAN COMMERCIAL COOPERATIVE BANK LIMITED

Appearance:

MR KG VAKHARIA, SR. ADVOCATE WITH
MR TUSHAR MEHTA for the Appellants
MR DD VYAS, SR. ADVOCATE, WITH
MR SHIRISH JOSHI for the Respondents.

CORAM : MR.JUSTICE M.R.CALLA and
MR.JUSTICE J.R.VORA

Date of decision: 28/07/98

Heard learned counsel. Admit. Mr Shirish Joshi waives service on behalf of the respondents. On the request of both the sides, the matter is taken up for final disposal right today.

The dispute arose between the parties with regard to the alleged elections said to have been held in April/May, 1998. The election dispute was raised under the provisions of the Gujarat Co-operative Societies Act before the Board of Nominees of the Registrar. The Board of Nominees passed an order on 20th June 1998 that the annual general meeting of the Cooperative society i.e. Jeevan Commercial Cooperative Bank Limited, may not be held, which was otherwise scheduled to be held on 21st June, 1998. The Bank as well as the elected members preferred a revision before the Gujarat State Cooperative Tribunal against the aforesaid order dated 20th June, 1998 passed by the Board of Nominees. The Gujarat State Co-operative Tribunal by its order dated 1st July, 1998 allowed the holding of the annual general meeting after a clear notice of 21 days and later on passed an order dated 18th July, 1998 that in the annual general meeting, item No.5 of the agenda with regard to approval by way of taking note of the elections already held in April/May, 1998 shall not be considered. At this stage, Special Civil Application No.5719 of 1998 was filed by the Bank and the elected members, challenging the Gujarat State Cooperative Tribunal's order dated 18th July, 1998. This Special Civil Application has been finally allowed by the learned single Judge after hearing both the sides on 21st July, 1998. Against this order dated 21st July, 1998, the present Letters Patent Appeal is preferred on 24th July, 1998 along with Civil Application for stay. Whereas the annual general meeting in question was to be held on 26th July, 1998, the appellants sought permission to move the matter before the Division Bench on 24.7.98. It is the common case of the parties that the matter did come up before Division Bench on 24th July, 1998 and the same was adjourned to 27th July, 1998 although in the record, there are no proceedings with regard to date of 24th July, 1998. It is given out that the annual general meeting was held on 26th July, 1998 in which the elections held in April/May, 1998 had also been taken note of by the annual general meeting.

Now that the annual general meeting has already been held, the appellants have sought to amend the Civil Application for stay in the light of the subsequent

developments.

We have heard learned counsel for both sides. The order passed by the learned single Judge shows that the respondents to this Letters Patent Appeal who are the original petitioners before the learned single Judge have stated before the learned single Judge that they will withdraw their Revision Application No.206 of 1998 as and when it comes up before the Tribunal. Keeping in view this statement, the Board of Nominees may go ahead to adjudicate the election dispute and therefore the learned single Judge has also ordered, in view of the understanding arrived at between the parties before him as recorded in para 10 of the judgement, that Dispute No.358 of 1998 will be heard and decided expeditiously and preferably by 16th October, 1998. Whereas 16th October, 1998 is fast approaching and no useful purpose will be served by mere adjudication of the question as to whether the item with regard to elections held in April/May, 1998 would be taken note of at the annual general meeting or not, with common consent of both sides, it is ordered that status quo ante as was obtaining prior to 26th July, 1998 shall continue upto 16th October, 1998 and with a direction that the Board of Nominees shall adjudicate the election dispute and pronounce their order in the election dispute at the earliest possible opportunity but in no case later than 16th October, 1998.

In the facts and circumstances of the case, no further orders are required to be passed in this Letters Patent Appeal and the same is hereby disposed of accordingly.

In view of the order passed in the Letters Patent Appeal, no orders are required to be passed in the Civil Application for stay and in the amendment sought in the Civil Application and the same also stands disposed of.

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